

Kentucky Surplus Lines Broker Information

The purpose of this memorandum is to emphasize the necessity to conduct business in strict compliance with the provisions of Kentucky surplus lines laws and regulations. Common areas of non compliance are mentioned here. Several statutes and regulations are referenced and summarized below. The full text of all statutes and regulations can be found at <http://doi.ppr.ky.gov/kentucky/laws.asp> . Additional information is available on the Kentucky Department of Insurance (DOI) Web site, <http://doi.ppr.ky.gov/kentucky> . Please take time to visit the Web site to become acquainted with the information available, and contact us if there are any questions.

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Affidavit of Placement Requirements, KRS 304.10-050 and 806 KAR 10:050

Please review and follow these procedures. Each affidavit should be properly completed before being filed within the required sixty (60) or ninety (90) day timeframe. **Incomplete, improper or incorrect affidavits will be rejected.**

- Affidavits of Placement may now be filed electronically or in hard copy.
- **Electronic filing (two methods)**
 - **eServices:** eServices permits each affidavit to be completed online. <https://doi.ppr.ky.gov/kentucky/secured/>
 - **FTP:** Bulk affidavit information may be submitted via File Transfer Protocol (FTP) submission.
 - Contact the DOI IS Help Desk with questions and requests for assistance with setting up an FTP process at KOIISHELPDESK@ky.gov
 - Copies of the policy documents shall not be submitted unless requested.
- **Mail (paper) filing**
 - KY S.L. Form 1 (Rev. 06/04) may be downloaded from http://doi.ppr.ky.gov/kentucky/Documents/PC/SL_affidavit_w_lobrevwoutloc.pdf
 - Procedures for properly completing the Affidavit may be downloaded from http://doi.ppr.ky.gov/kentucky/Documents/PC/SL_AFF_INS_REV06082005.pdf
 - The completed affidavit, accompanied by a copy of the declaration page, endorsement, or audit statement, shall be mailed or delivered to .
 - The policy document shall detail premiums, assessments, fees, charges or other consideration deemed part of the premium, surplus lines tax, premium surcharge and local government premium tax. If the declaration page is not available to make a timely filing, a copy of the binder showing the above details shall be submitted.

Quarterly Reports and Taxes

• Quarterly Report, KRS 304.10-170 and 806 KAR 10:030

- Each broker shall, within thirty (30) days of the end of each calendar quarter, file with KOI a verified statement of all surplus lines insurance transacted during the preceding calendar quarter.
- We interpret the statutes as requiring the report and tax payments on a “quarter in arrears basis.”

Business transacted during the calendar quarter:	Quarterly report and tax are due:
January 1 - March 31	July 30
April 1 - June 30	October 30
July 1 - September 30	January 30
October 1 - December 31	April 30

- The Surplus Lines Broker Quarterly Report can be downloaded from <http://doi.ppr.ky.gov/kentucky/Documents/PC/slquarsta.pdf>
- Procedures for completing the Quarterly Report can be downloaded from <http://doi.ppr.ky.gov/kentucky/Documents/PC/slquarprocREV05032005.pdf>

A report must be completed every quarter even if no transactions occurred.
Specify on both pages which calendar quarter is being reported.
Incomplete or incorrect reports will be returned.
Send quarterly reports to the above address.

DO NOT SUBMIT AFFIDAVITS WITH QUARTERLY REPORTS.

Questions should be addressed to Veronica Mattingly at (502) 564-3630, ext. 4246.

• Surplus Lines Tax, KRS 304.10-170, KRS 304.10-180, and 806 KAR 10:030

- A 3 percent tax on the premiums, assessments, fees, charges or other consideration deemed part of the premium shall be remitted. Tax shall not be assessed on the premium surcharge tax, the local government premium tax, or any other state or federal tax.
- Checks, payable to the Kentucky State Treasurer, shall be attached to the Quarterly Report and remitted to DOI within thirty (30) days of the end of each calendar quarter.
- Questions should be directed to Veronica Mattingly at (502) 564-3630, ext. 4246.

• Premium Surcharge, KRS 136.392 and KRS 304.10-180

- The 1.5 percent premium surcharge is administered by the Finance & Administration Cabinet. The Web site is <http://revenue.ky.gov> The mailing address is:
PO Box 1303
Frankfort, KY 40602-1303
- Questions should be directed to Cheryl Hunt at (502) 564-4810.

• Local Government Premium Tax (LGPT), KRS 91A.080 and KRS 304.10-180

- Each LGPT is payable and remitted quarterly to the individual local taxing entities.
- An Annual Reconciliation is filed with the Department of Insurance.
- The LGPT Schedule, Listing of Payees and Addresses, Quarterly Return Forms, Annual Reconciliation and Instructions are available at:
http://doi.ppr.ky.gov/kentucky/Documents/Tax/city_address042007.doc .

- Questions should be directed to the DOI Municipal Tax Unit at (502) 564-1649.

Surplus Lines Statutes

- **KRS 304.10-030 and KRS 304.10-120**

All coverage written with an unauthorized insurer for a Kentucky risk must be procured through a Kentucky licensed surplus lines broker. The licensing requirement also applies to an out-of-state agent/broker, e.g., MGA/MGU, who places, effects, or ultimately binds the coverage.

- **KRS 304.10-040**

A risk may not be exported to the surplus lines market until after a diligent effort has been made to effect coverage among authorized insurers (usually three) who transact and write that kind and class of insurance in this state. *Even though the listing of the three companies is no longer required on the affidavit, the search should be recorded in the brokers' records and available for examination.*

- **KRS 304.10-070**

A broker shall not place surplus lines insurance with an insurer that the broker knows, or with reasonable diligence could know, (a) has a surplus of less than six million dollars (\$6,000,000), (b) has not established satisfactory evidence of good repute and financial integrity, (c) is unsound financially, or (d) is ineligible under the Kentucky insurance code.

A broker shall not place insurance with an alien insurer that is not recognized by the National Association of Insurance Commissioners (NAIC) and does not maintain a trust fund for the benefit of U.S. policyholders of at least five million four hundred thousand dollars (\$5,400,000). Also, a broker shall not place surplus lines insurance with any insurer that has been in business less than three (3) years unless the insurer has deposited with the DOI, securities with a market value of at least six hundred thousand dollars (\$600,000).

- **KRS 304.10-090**

The following must be conspicuously stamped upon the face every surplus lines policy: "This insurance has been placed with an insurer not licensed to transact business in the Commonwealth of Kentucky but eligible as a surplus lines insurer. The insurer is not a member of the Kentucky Insurance Guaranty Association. Should the insurer become insolvent, the protection and benefits of the Kentucky Insurance Guaranty Association are not available."

- **KRS 304.10-080**

Every declaration page or broker's certificate (binder) shall, among other things, include the premium and itemize all taxes collected from the insured.

- **KRS 304.10-050 and 806 KAR 10:050**

The broker shall file a properly completed affidavit, either electronically or on paper, along with the policy declaration page, for each surplus lines transaction within sixty (60) days of each transaction. (90 days for alien insurers). If the declaration page is not

available in order to timely file a paper affidavit, a copy of the binder will be accepted, on an exception basis.

- **KRS 304.10-170 and 806 KAR 10:030**

Each broker shall within 30 days of the end of each calendar quarter, file a verified statement of all surplus lines transactions during the preceding calendar quarter.

- **KRS 304.10-180 and 806 KAR 10:030**

Each broker shall be responsible for the following taxes:

- 3 percent surplus lines tax, reported and paid to the Kentucky Department of Insurance.
- 1.5 percent premium surcharge tax, reported and remitted to the Kentucky Revenue Cabinet, pursuant to KRS 136.392.
- Local government premium taxes, reported and remitted to the appropriate city, county, or urban-county government taxing authority, pursuant to KRS 91A.080.

- **KRS 304.10-160**

Each broker is required to maintain the appropriate records regarding surplus lines placements and premium transactions. Records shall be open for examination at all times within 5 years after the issuance of coverage.

- **KRS 304.10-130 and KRS 304.99**

Failure to comply with the statutes governing surplus lines may result in administrative fine(s), suspension or revocation of a broker's license.

Miscellaneous

- Underwriters at Lloyds, London is an authorized (admitted) insurer in Kentucky. Any placement must be through an agent properly appointed by Underwriters at Lloyds, London. Questions should be addressed to:

Underwriters at Lloyds, London
314 West Main Street
Frankfort, Kentucky 40601-1842.
Telephone (502) 875-5940

- Affidavits and quarterly reports should be sent to:

For US Postal Service regular delivery:

Department of Insurance
PO Box 517
Frankfort, KY 40602-0517

- For Federal Express, DHL, UPS, Airbourne Express or other hand-delivery services:

Department of Insurance
215 West Main Street
Frankfort, KY 40601

Questions

Contact the Property and Casualty Division:

Veronica Mattingly 502-564-3630, ext. 4246 Veronica.Mattingly@ky.gov